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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/496,825	02/01/2000	Edward Rowland Grauch	36968/086082/CONT	6736

30314 7590 07/08/2004

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EXAMINER

USTARIS, JOSEPH G

ART UNIT	PAPER NUMBER
2611	13

DATE MAILED: 07/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/496,825

Applicant(s)

GRAUCH ET AL.

Examiner

Joseph G Ustaris

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Specification

1. The abstract is objected to because of the following informalities:
 - The abstract exceeds the maximum word length of 150 words. Please revise the abstract's contents in order to meet the proper format of an abstract.

Appropriate correction is required.

Response to Preliminary Amendment

2. The declarations by Edward Rowland Grauch, John Stefanik, and Scott Swix filed on 02 October 2000 under 37 CFR 1.131 is sufficient to overcome the Cathey et al. (US005778182A) reference. For your information, the preliminary amendment states that the affidavits are established for claims 1-7. The examiner will assume this is an error and that the affidavits are established for claims 1-23. Upon examination, the examiner will use the conception date, 18 August 1995, as the reference date.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over McMullan, Jr. (US005251324A) and Kiewit et al. (4,697,209).

Regarding claim 1, McMullan, Jr. (McMullan) discloses a cable television distribution system or "media delivery network" that delivers programming to numerous remote set-top terminals (STTs) or "set top boxes" (See Fig. 1), where each STTs are capable of running different applications or "supporting different applications", i.e. IPPV service, home shopping, and applications for performing basic functions like changing channels, which are "invoked and controlled by subscribers commands" (See column 9 lines 40-48 and column 11 lines 35-45). The cable television distribution system also has the capability of generating and collecting viewing statistics or "information about viewing habits" of the subscribers using the STTs (See column 23 line 65 – column 24 line 17). Inherently, each application within the STT would be programmed to "identify selected subscriber commands of interests", i.e. when the user issues a command to buy a PPV program the IPPV application would recognize or "to identify" that command (See column 2 lines 1-16). The STT includes non-volatile memory (NVM) where it stores an Event/Viewing Statistic Reply that contains event records of the STT or "creating an event record", i.e. channels which were tuned by the STT and IPPV purchase data of the subscriber (See column 24 line 62 – column 25 line 6). Inherently, when storing records within the Event/Viewing statistic Reply an "application identifier corresponding to a particular application" is used to label the event, i.e. IPPV purchase or viewing channel (See Fig. 16, View Channel A-D and column 5 lines 49-60). The Event/Viewing statistic Reply includes the "applications identifier" and a time code or

"time stamp" of when the event was recorded (See column 5 line 65 – column 6 line 5). However, McMullan does not disclose that the Event/Viewing statistic Reply contains an "identification code corresponding to the selected command".

Kiewit et al. (Kiewit) discloses a system for determining the viewing habits of subscribers. The system is able to record the mode in which the subscriber is using the system. The mode or "identification code" list numbers that correspond to certain subscriber operations or "corresponding to the selected command", i.e. VCR playback = 4.2, VCR Rewind = 4.4 (See Fig. 3 and column 6 lines 15-34). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the Event/Viewing statistic Reply disclosed by McMullan to use mode codes or "identification code" that corresponds to the subscriber's operations/commands, as taught by Kiewit, in order to provide an easy and universal system to identify certain operations thereby making it easier for the system to generate statistics of the subscribers actions.

Regarding claim 2, Kiewit discloses that the modes are determined by using a look-up table or "accessing a table in order to determine the identification code" (See Kiewit column 6 lines 15-20).

Regarding claim 3, it would have been obvious to use a look-up table to "determine the application identifier" much like how it is used to "determine the identification code", as taught by Kiewit, in order to efficiently find application identifiers thereby decreasing the time it take to record an event of the subscriber.

Regarding claim 4, inherently the system records multiple event records by repeating the process and the events are stores within the Event/Viewing statistic Reply as discussed in claim 1 above. However, McMullan in view of Kiewit does not disclose a buffer for "buffering" the Event/Viewing statistic Reply.

Official Notice is taken that it is well known to use buffers in a transmission system. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the STTs disclosed by McMullan in view of Kiewit to include buffers that store the Event/Viewing statistic Reply in order to increase the efficiency of the communications between the STTs and Head end.

Regarding claim 5, the Event/Viewing statistic Reply containing a "plurality of event records" is forwarded to the system manager or "merge processor" (See McMullan column 24 lines 60-65).

Regarding claim 6, inherently the system manager is coupled to a "broadcast identification information" data source in order to be able to provide IPPV services to the subscribers.

Regarding claim 7, the events can record subscribers VCR commands as shown by Kiewit as well as other types of information (See Kiewit Fig. 3 and McMullan column 5 lines 49-60).

Claim 8 contains the limitations of claim 1 and 5 and is analyzed as previously discussed with respect to those claims. Furthermore, each STT has four collection slots used to record the channels being viewed or also known as "event records" at different times, where inherently the four collection slots makes up an "event timeline describing

a subscriber's selection of distributed programming for a discrete time period" when the system manager receives information from all collection slots (See McMullan column 24 lines 18-61 and column 27 lines 30-46). However, McMullan does not disclose that the "event records are merged with "programming data".

Kiewit also discloses a system where the home unit or STT would also collect signatures from the programs being viewed by the subscribers or also know as an "event record". The signature is sent to the central office or system manager where it compares the signature with reference signatures or "programming data" extracted from cable programs at the head ends or other sources or "merging the event records with programming data" (See Kiewit column 5 lines 5-45). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify system manager disclosed by McMullan to compare or "merge" event records with "programming data", as taught by Kiewit, in order to provide a more detailed and accurate record of what programs the subscriber viewed that was distributed by the cable television distribution system.

Regarding claim 9, Official Notice is taken that is well known to obtain programming data from a "broadcasting schedule source" and a "national advertising schedule". Therefore, it would have been obvious to one with ordinary skill in the art the time the invention was made to modify the system manger disclosed by McMullan in view of Kiewit to also obtain programming data from a "broadcasting schedule source" and a "national advertising schedule" in order to keep the system manager up to date of

the latest programming schedules for programs and advertisements being distributed over the cable television distribution system.

Claim 10 contains the limitations of claims 1 and 8 and is analyzed as previously discussed with respect to those claims.

Claim 11 contains the limitations of claims 1 and 10 and is analyzed as previously discussed with respect to those claims.

Regarding claim 12, the Kiewit also discloses that the system are also records "event records" or "creates an event record" when it detects a change in mode which is controlled by the subscriber or "upon detection of selected commands from the subscriber" (See Kiewit column 6 line 3 – column 7 line 5).

Claim 13 contains the limitations of claims 4 and 8 (wherein the event records are stored in the "buffer" prior to transmission) and is analyzed as previously discussed with respect to those claims.

Regarding claim 14, Official Notice is taken that is well known to form an "event timeline" for each STT within the cable television distribution system. Therefore, it would have been obvious to one with ordinary skill in the art the time the invention was made to modify the system manger disclosed by McMullan in view of Kiewit to form an "event timeline" for each STT within the cable television distribution system in order to provide statistical analysis for the usage of each STT as well as the usage of the entire population of STTs.

Regarding claim 15, the system manager also serves the functions as the "analysis engine" that correlates the information collected from the collections slots or

also known as an “event timeline” with “demographics information describing the subscriber (See McMullan column 24 lines 1-17 and column 25 lines 50-67).

Claim 16 contains the limitations of claims 1 and 8 (wherein the event records are also known as “journaling information”) and is analyzed as previously discussed with respect to those claims.

Regarding claim 17, inherently the look-up table as discussed in claims 2 above is used throughout the system in order to be consistent for all home units or STTs or “correlating each command of interest with a global table comprising identification codes”.

Claim 20 contains the limitations of claim 15 and 16 (wherein each STT also serves the function as the “collector” and the each STT can store demographics information (See McMullan column 25 lines 55-66)) and is analyzed as previously discussed with respect to those claims.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over McMullan, Jr. (US005251324A) and Kiewit et al. (4,697,209) as applied to claims 1-17 and 20 above, and further in view of Faust et al. (US005752159A).

McMullan in view of Kiewit does not disclose that the “event timelines” are filtered into two categories.

Faust et al. (Faust) discloses an event collector that is able to collect events logged at client machines. The event collector is able to filter the events according to event types and filter values, where inherently the result of the filtering process would

produce at least two event types or "categories", one being the desired events and the other being the uninteresting events (See column 5 lines 50-65 and column 6 lines 30-50). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the system manger disclosed by McMullan in view of Kiewit to filter the "event timelines" into at least two categories, as taught by Faust, in order to provide a means of organizing the data thereby increasing the efficiency of the system manager.

Claim 19 and 21-23 are is rejected under 35 U.S.C. 103(a) as being unpatentable over McMullan, Jr. (US005251324A) and Kiewit et al. (4,697,209) and in further view of Faust et al. (US005752159A) as applied to claim 18 above, and further in view of Russo (US005619247A).

Regarding claim 19, McMullan in view of Kiewit and in further view of Faust does not disclose that the first category is "programming watched by a subscriber for a greater then a selected threshold percent of the total program length".

Russo discloses a stored program pay-per-play system that monitors the programs stored and the percentage of each program that the subscriber has viewed. When some high percentage of a certain program has been viewed, the subscriber is then charged for the program or "programming watched by a subscriber for a greater than a selected threshold percent of the total program length" (See column 5 lines 20-25 and 48-60). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the filtering system of the system manager

disclosed by McMullan in view of Kiewit and in further view of Faust to create a category of "programming watched by a subscriber for a greater than a selected threshold percent of the total program length", as taught by Russo, in order to provide content providers with organized information pertaining to which programs that have been viewed by the subscribers.

Claim 21 contains the limitations of claims 18, 19, and 20 and is analyzed as previously discussed with respect to those claims.

Claim 22 contains the limitations of claim 21 (wherein each STT also serves the function as the "collector", which is connected to a television or "display device" (See McMullan Fig. 1, elements 120 and 130)) and is analyzed as previously discussed with respect to that claim.

Claim 23 contains the limitations of claims 1, 4, and 22 (wherein the "buffer" is part of the STT that also serves the function as the "collector") and is analyzed as previously discussed with respect to those claims.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please take note of Nickerson et al. (4,566,030) for their similar method of collecting viewer data.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Ustaris whose telephone number is (703) 305-


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0377. The examiner can normally be reached on Monday-Friday with alternate Fridays off from 7:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380. The fax phone number for this Group is (703) 872-9306.

Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (703) 305-4700.


JGU
June 21, 2004


VIVEK SRIVASTAVA
PRIMARY EXAMINER